



COMMUNITY DEVELOPMENT DEPARTMENT

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PLANNING COMMISSION MEETING MINUTES

REGULAR MEETING

NOVEMBER 11, 2003

PRESENT: Acevedo, Benich, Engles, Escobar, Lyle, Mueller

ABSENT: Weston

LATE: None

STAFF: Planning Manager (PM) Rowe, Deputy Director of Public Works/Engineering (DDPW/E) Bjarke, Senior Engineer (SE) Creer and Minutes Clerk Johnson.

Chair Mueller called the meeting to order at 7:05 P.M.

DECLARATION OF POSTING OF AGENDA

Minutes Clerk Johnson certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

OPPORTUNITY FOR PUBLIC COMMENT

Chair Mueller opened the public hearing.

With no one present wishing to address matters not appearing on the agenda, the public hearing was closed.

MINUTES:

OCTOBER 28, 2003 COMMISSIONERS ESCOBAR/ACEVEDO MOTIONED TO APPROVE THE OCTOBER 28, 2003 MINUTES WITH THE FOLLOWING AMENDMENTS:

Page 5, Paragraph 4: *Chair Mueller reminded the commission and audience that the change in age limit was the adgendized item not revoking the permit.*

Page 9, Paragraph 1 Repositioned comments/questions to public hearing portion of the agenda item.

Page 9, Paragraph 4 (add, last sentence): *area in a similar area, that being a daycare/preschool adjacent to residential properties.*

Page 10 Resolution 03-83 motion under modifications [2nd bullet]:
enrollment.....category (and the number of children in this category is limited to

PLANNING COMMISSION MEETING MINUTES

NOVEMBER 11, 2003

Page 2

12)

Page 11, 4 lines from bottom: ~~vernacular~~ language

Page 12, paragraph 3: *My main point, he explained, is that the nursing profession was previously documented as needing affordable housing, but was not identified here.*

Page 13, Paragraph 3: open market moderate units

Page 13 Paragraph 6: 36-foot ~~radius~~ radius

Page 14, paragraph 3: ~~Yes~~ Yee

Page 16, Paragraph 3, 1st sentence: site, but *convinced we need to supply teacher/policeman housing*

Page 16, Paragraph 3, and 3rd sentence: development *open space area* – and that safety

Page 17, Paragraph 4: people *specifically those employed outside Morgan Hill*

Page 17, Paragraph 5: ~~have opened~~ *will be opening*

THE MOTION CARRIED BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: ENGLES; ABSENT: WESTON.

CONSENT CALENDAR:

At the request of Commissioner Acevedo, item 1 was pulled from the consent calendar for discussion as new business.

1) EOT-03-19: MONTEREY- SINALOA

A request for a three-year extension of a use permit approval for the reconstruction and expansion of a 5,820-sf restaurant (Sinaloa Restaurant), located in the CS Service Commercial Zoning District at the northeast corner of Monterey Road and Peebles Avenue.

PM Rowe presented the staff report, noting for background information that at the November 12, 2002 Commission meeting, approval for a conditional use permit (CUP) was given for the reconstruction and expansion of the Sinaloa Restaurant, which was destroyed in a fire. He provided details of the CUP which included a condition that the applicant was required to commence the use within 12 months of approval. "Failure to commence the use within this term shall result in termination of approval unless an extension of time is granted with a showing of just cause prior to the expiration date," PM Rowe referenced from the CUP.

"The applicant's Letter of Request indicated the applicant has experienced delays assembling funding for the project. Furthermore, in order to obtain favorable terms for their loan, the applicant needs to provide the bank with proof of income. So the applicant has decided to temporarily relocate the restaurant business to downtown Morgan Hill. When this is accomplished, the applicant will be able to earn income and have the time needed to resolve funding issues," PM Rowe reported.

Commissioner Acevedo asked the purpose of a time limit in the first place? "Why not just issue a use permit?"

PM Rowe informed the use permit runs with the land indefinitely. When granting a use permit, he said, findings, which are part of the Government Code, must be identified and met. Over time those findings may no longer be applicable, PM Rowe said, and accordingly, the time limit gives the opportunity for revision.

PLANNING COMMISSION MEETING MINUTES

NOVEMBER 11, 2003

Page 3

Commissioner Acevedo suggested discussion, indicating he had some ideas to bring out.

COMMISSIONER ENGLES OFFERED RESOLUTION NO. 03-87, APPROVING A THREE YEAR EXTENSION OF TIME FOR USE PERMIT APPLICATION, UP-02-07: MONTEREY – SINALOA. COMMISSIONER BENICH SECONDED THE MOTION.

Commissioner Acevedo explained that his objective of pulling the item was to have open discussion on several of the issues involved. “Fundamentally, I don’t have a problem with the concept of the extension, but my concern is that it is based solely on dollars/financing. I think that there should be an incentive to the developer to ‘get moving’. If there is not an incentive, then we either should not give the extension or make the time shorter, requiring that some progress be made. There are items in the letter from the applicant which appear to ‘put the cart before the horse’. I would like to see either an outright denial, because with the extension, the land would be tied up, or limit the extension to one year, with dates certain being listed.”

Commissioner Lyle said he, too, had some qualms about the 3-year time and would prefer to see it no longer than 2 years.

Commissioner Acevedo said that a shorter time limit would have the applicant coming back in with a date certain/timeline for the project.

Commissioner Benich called attention to Section 4, item c of Resolution No. 03-87, stating this is the ‘key’, a ‘lock-in code’, and that if things change in the next three years, the applicant will have to comply with the building codes at the time the use permit is actually activated.

Commissioner Escobar expressed concern that this time was legally noticed as a consent item, wondering about considering alternative action(s).

Commissioner Engles remarked this is a different circumstance than a building-use permit usually asks for; they may want to use the land differently, perhaps with another third party being involved. He spoke of the fluctuating land prices in the current climate, commenting that it would be good for the family to have the land use.

Chair Mueller announced that the item had not been noticed for public hearing, but it was past practice for the Commissioners to hear applicants, as he acknowledged the applicant in the audience. Chair Mueller asked if the Commissioners had questions of the applicant? There was no response. He then asked if the applicant wished to speak. Steve Pena indicated he did not. Chair Mueller continued that he favored issuing the three year extension for a CUP, noting the use permit is on file with the Planning Department. “This would be good, with more value to the property,” he said, “and give the applicant time to establish the new business to finance this project. He could probably do it in two years, but the leeway of three years will be beneficial.”

THE MOTION PASSED WITH THE VOTE OF ALL COMMISSIONERS PRESENT; WESTON WAS ABSENT.

PLANNING COMMISSION MEETING MINUTES

NOVEMBER 11, 2003

Page 4

NEW BUSINESS:

2) SDA-01-11: COCHRANE- MISSION RANCH

A request to amend the recorded tract map for phase 6 of the Mission Ranch subdivision located on the south west corner of the intersection of Peet Rd. and Cochrane Rd. The requested amendments include the shift in the center line of Peet Rd. 15.5 ft. to the northeast, a 5-10 ft. increase in the lot depth on lots 1-9 and a 5 ft. reduction in the lot width on lot 10.

PM Rowe presented the staff report giving an overview of the difficulty of resolution with PG&E in relocating the utility poles in prospect of street improvements. In order to expedite the process of adjusting the landscape area and extinguish a potential lengthy homeowner's association (HOA) amendment process, the developer is asking to amend the recorded tract maps for phases 5 and 6. PM Rowe also noted that there would be a 5-foot reduction in the lot width on lot 10, not lot 11 as had been noted in the staff report.

Commissioner Lyle asked if ultimately the power poles would be moved? "I certainly do not want to see the HOA unduly burdened, as we consider the solution to this issue," he said. SE Creer said that these are 21 KV or higher lines, so they would not be moved, as lines of this magnitude are transmission lines and not placed underground. "Other, smaller lines will be undergrounded as part of the street improvements," SE Creer said.

Chair Mueller opened the public hearing.

Dick Oliver, 275 Saratoga Ave, #105, Santa Clara, thanked the Commissioners and staff for the willingness to consider this item. "It's been very frustrating trying to work on this matter with PG&E. It's been two years. The problems seem to stem from the beginning of that company's bankruptcy; they had staff cuts which make a huge backlog," Mr. Oliver stated.

Commissioner Benich asked questions regarding the location of lot 10, ascertaining that it was indeed lot 10 and not lot 11 which would have a reduction in the lot width, with an increase in lot depths of lots 1 – 9 and 15. Mr. Oliver explained the configuration of the lots, with lot 10 being a corner lot. He also addressed the existing set-backs of the lots.

With no others present to address the matter, Chair Mueller closed the public hearing.

COMMISSIONER LYLE OFFERED RESOLUTION NO. 03-88, APPROVING AN AMENDMENT TO PHASES 5 & 6 OF THE MISSION RANCH SUBDIVISION, ALLOWING FOR THE INCREASE IN THE LOT DEPTH ON LOTS 1 – 9 OF TRACT 9424, A 5 FT. DECREASE IN THE WIDTH OF LOT 10, AND AN INCREASE IN THE WIDTH OF PARCEL A & LOT 15 OF TRACT 9423. [Note: lot 11 was corrected throughout the Resolution] COMMISSIONER ESCOBAR MADE THE SECOND, WITH THE MOTION PASSING BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ENGLER, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: WESTON.

PLANNING COMMISSION MEETING MINUTES

NOVEMBER 11, 2003

Page 5

3) VAR-03-02: JACKSON OAKS- CITY OF MORGAN HILL BOOSTER STATION

A request for approval of a Variance to allow a 21-foot side yard setback for the south property line and a 19-foot side yard setback for the north property line from the required 50-foot side yard setback for a proposed building on a 38-acre lot located approximately 600ft. east of Hill Top Court. The site is located in the Open Space (OS) zoning district

PM Rowe presented the staff report, saying that approval is being asked for the setback adjustment(s) to the property lines in order to replace an existing booster pump station with a new installation. The City's Public Works Department intends to construct the new booster pump house next to the existing pump house, he said. The new booster pump house will be constructed about 70-feet north of an existing residence. Findings are required, PM Rowe noted as he called attention to the provisions for granting a variance. "This will not be inconsistent with the setbacks on the adjacent property," he said.

Commissioner Benich asked if the new pump would increase/decrease the noise level? DDPW/E Bjarke responded that the new pumps are anticipated to be quieter. Commissioner Benich continued by asking if the new pump would be of higher horsepower? DDPW/E Bjarke said, "Yes, but the new pump is to be enclosed in a building."

Commissioner Lyle asked about landscaping with plantings for the new pump.

Commissioner Engles inquired about the use of chain link fence, saying if there is a building where people could find shelter under the eaves, this might reduce potential vandalism. SE Creer said that chain link fences around installations such as this, if required, there are usually slats inserted within the links, giving an example of the fence on City property at E. Dunne and Carriage Way.

Chair Mueller said in this case, the pump will 'blend in' to the topography of the property.

Commissioner Engles reminded this is Open Space zoning, asking if the site is accessible to the public? SE Creer said that the back side of the property is 'very steep'. PM Rowe commented that because of the terrain there would be few hikers attracted to the area. DDPW/E Bjarke said fencing of the installation is not planned and the pump will be enclosed within a building.

Commissioner Acevedo called attention to the pictures and map in the staff report, asking about the trailer which was apparent. PM Rowe explained the uses of the adjoining properties, indicating the trailer is used for storage on a lot owned by one of the neighboring residents.

Chair Mueller opened the public hearing.

Denice Binder, 16827 Hilltop Court, said she is a landowner in the area and asked questions of whether the driveway to the existing installation would be changed?

DDPW/E Bjarke explained the ingress/egress, noting possible configuration changes in the driveway.

PLANNING COMMISSION MEETING MINUTES

NOVEMBER 11, 2003

Page 6

Commissioner Escobar said he is familiar with the property site, having lived in the area. "The location is accessible, but not generally where people go. It is certainly not inaccessible, but as with any driveway, it provides opportunity for entry," he commented.

Ms. Binder expressed concern about the potential relocation of the drive.

PM Rowe explained the location of shifting the drive. Chair Mueller observed that the drive would be slightly to the west of the existing drive. DDPW/E Bjarke indicated that the drive is limited to the area zoned 'open space', which is extremely limited. SE Creer suggested to Ms. Binder that speaking directly to personnel at Public Works who could provide detailed information would be constructive. Ms. Binder agreed this would be beneficial.

With no other persons present indicating a wish to speak to the matter, Chair Mueller closed the public hearing.

COMMISSIONER BENICH OFFERED RESOLUTION NO. 03-89, APPROVING A VARIANCE ALLOWING A NINETEEN FOOT SET-BACK FOR THE NORTH PROPERTY LINE AND A TWENTY-FOUR FOOT SET-BACK FOR THE SOUTH PROPERTY LINE FROM THE MINIMUM SIDE YARD SET-BACKS FOR A PROPOSED 576 SQ. FT. BUILDING LOCATED IN THE OPEN SPACE ZONING DISTRICT. COMMISSIONER ENGLES SECONDED THE MOTION, WHICH PASSED WITH THE AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; WESTON WAS ABSENT.

OTHER BUSINESS:

4) HOLIDAY MEETING SCHEDULE

A request to cancel the December 23, 2003 Planning Commission meeting and discussion regarding an action regarding other possible changes to the November and December meeting schedule.

PM Rowe explained the upcoming events, such as the City furlough during the last two weeks of the year, the holiday schedule (Thanksgiving and other celebrations), and noted the customary schedule for Planning Commission meetings.

Discussion ensued regarding the attendance potential of Commissioners and conflicting dates for the meetings. PM Rowe called attention to some of the matters which must be heard by the City Council at the December 16 meeting.

COMMISSIONERS ESCOBAR/LYLE MOTIONED THE FOLLOWING ADJUSTMENTS TO THE MEETING SCHEDULE FOR NOVEMBER AND DECEMBER, 2003:

~~November 25~~

December 2 special meeting

December 9

~~December 23~~

THE MOTION CARRIED WITH THE UNANIMOUS VOTE OF ALL COMMISSIONERS PRESENT; WESTON WAS ABSENT.

PLANNING COMMISSION MEETING MINUTES

NOVEMBER 11, 2003

Page 7

ANNOUNCEMENTS: PM Rowe called attention to the report in the packets regarding recent City Council actions.

PM Rowe indicated a request has been received from the Morgan Hill Chamber of Commerce for a representative of the Planning Commission to serve on the Chamber's Economic Development Committee (EDC) for the next year.

Commissioner Acevedo explained his involvement with the EDC, giving an overview of the EDC objectives. Commissioner Engles indicated he too has been a member of the EDC's, but has been inactive recently.

Commissioner Lyle noted the link between the Planning Commission and the Redevelopment Agency, asking if the City Attorney should be contacted regarding the appropriateness of the Chamber's request?

Discussion was had by all Commissioners regarding the request and the potential for Commissioner's involvement. Chair Mueller said he would prefer asking the City Council if they wish to have a Planning Commissioner on the EDC, and if so, permitting the Commissioners to name that member. Others concurred and **by consensus the Council will be asked to comment, with the City Attorney addressing the appropriateness of an appointment, with the Commission seeking approval to make the appointment as warranted.**

ADJOURNMENT: There being no further business to come before the Commission, Chair Mueller adjourned the meeting at 8:44 p.m.

MINUTES RECORDED AND PREPARED BY:

JUDI H. JOHNSON, Minutes Clerk